

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X	:	
Jane KAUPP,	:	
	:	
Plaintiff,	:	
	:	10 Civ. 7559 (JFK)
-against-	:	
	:	<u>MEMORANDUM OPINION</u>
JUST MARKETING, INC., et al.	:	<u>AND ORDER</u>
	:	
Defendants.	:	
-----X	:	

JOHN F. KEENAN, United States District Judge:

By its letter dated December 22, 2010, Defendant Just Marketing, Inc. ("JMI") requested a conference to discuss the proper procedure to prevent the filing of the Plaintiff's Second Amended Verified Complaint (the "Amended Complaint"). JMI argues that the Amended Complaint contains scandalous and irrelevant allegations. The Court held the requested conference this morning by telephone and has considered the Amended Complaint, as well as JMI's letter and Plaintiff's letter in response dated December 22, 2010. For the reasons set forth below, the Court moves sua sponte under Rule 12(f) to strike portions of Plaintiff's Amended Complaint as irrelevant and scandalous.

Discussion

Rule 12 of the Federal Rules of Civil Procedure permits the court to "strike from a pleading . . . any redundant, immaterial, impertinent, or scandalous matter," and to do so on its own motion. Fed. R. Civ. P. 12(f).

Paragraph 88 of the Amended Complaint contains allegations that are scandalous and at best tangentially relevant to the instant lawsuit, which at its core involves a claim that Mr. Church has harassed Ms. Kaupp. Therefore, Paragraph 88 is stricken in its entirety.

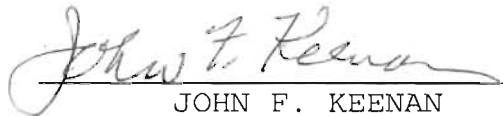
The portion of Paragraph 89 of the Amended Complaint that is in parentheses is stricken. While other portions of Paragraph 89 contain accusations that may be relevant to Plaintiff's theory of JMI's liability when all inferences are drawn in favor of the Plaintiff, the portion in parentheses is both scandalous and impertinent.

Conclusion

For the foregoing reasons, the identified portions of the Amended Complaint are stricken and the Plaintiff is ordered to serve an amended complaint on the parties that is consistent with this Order. Additionally, Plaintiff is directed not to file this new complaint until the Defendants' objections noted in the telephone conference held this morning are resolved.

SO ORDERED.

Dated: New York, New York
December 28, 2010


JOHN F. KEENAN
United States District Judge